

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 496
94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Offered April 16, 2007.

Senate Substitute adopted, April 16, 2007.

Taken up for Perfection April 16, 2007. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1352S.04P

AN ACT

To repeal sections 58.451, 58.720, 194.119, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, and 302.171, RSMo, and to enact in lieu thereof twenty-nine new sections relating to anatomical gifts, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 58.451, 58.720, 194.119, 194.210, 194.220, 194.230, 2 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, and 3 302.171, RSMo, are repealed and twenty-nine new sections enacted in lieu 4 thereof, to be known as sections 58.451, 58.720, 58.775, 58.780, 58.785, 194.119, 5 194.210, 194.215, 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 6 194.255, 194.260, 194.263, 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 7 194.292, 194.293, 194.294, 194.304, and 302.171, to read as follows:

58.451. 1. When any person, in any county in which a coroner is required 2 by section 58.010, dies and there is reasonable ground to believe that such person 3 died as a result of:

- 4 (1) Violence by homicide, suicide, or accident;
- 5 (2) Criminal abortions, including those self-induced;
- 6 (3) Some unforeseen sudden occurrence and the deceased had not been 7 attended by a physician during the thirty-six-hour period preceding the death;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8 (4) In any unusual or suspicious manner;

9 (5) Any injury or illness while in the custody of the law or while an
10 inmate in a public institution; the police, sheriff, law enforcement officer or
11 official, or any person having knowledge of such a death shall immediately notify
12 the coroner of the known facts concerning the time, place, manner and
13 circumstances of the death. Immediately upon receipt of notification, the coroner
14 or [his] deputy **coroner** shall take charge of the dead body and fully investigate
15 the essential facts concerning the medical causes of death, including whether by
16 the act of man, and the manner of death. [He] **The coroner or deputy**
17 **coroner** may take the names and addresses of witnesses to the death and shall
18 file this information in [his] **the coroner's** office. The coroner or [his] deputy
19 **coroner** shall take possession of all property of value found on the body, making
20 exact inventory of such property on [his] **the** report and shall direct the return
21 of such property to the person entitled to its custody or possession. The coroner
22 or [his] deputy **coroner** shall take possession of any object or article which, in
23 [his] **the coroner or the deputy coroner's** opinion, may be useful in
24 establishing the cause of death, and deliver it to the prosecuting attorney of the
25 county.

26 2. When a death occurs outside a licensed health care facility, the first
27 licensed medical professional or law enforcement official learning of such death
28 shall contact the county coroner. Immediately upon receipt of such notification,
29 the coroner or the coroner's deputy shall make the determination if further
30 investigation is necessary, based on information provided by the individual
31 contacting the coroner, and immediately advise such individual of the coroner's
32 intentions.

33 3. Upon taking charge of the dead body and before moving the body the
34 coroner shall notify the police department of any city in which the dead body is
35 found, or if the dead body is found in the unincorporated area of a county
36 governed by the provisions of sections 58.451 to 58.457, the coroner shall notify
37 the county sheriff [and] **or** the highway patrol and cause the body to remain
38 unmoved until the police department, sheriff or the highway patrol has inspected
39 the body and the surrounding circumstances and carefully noted the appearance,
40 the condition and position of the body and recorded every fact and circumstance
41 tending to show the cause and manner of death, with the names and addresses
42 of all known witnesses, and shall subscribe the same and make such record a part
43 of [his] **the coroner's** report.

44 4. In any case of sudden, violent or suspicious death after which the body
45 was buried without any investigation or autopsy, the coroner, upon being advised
46 of such facts, may at [his] **the coroner's** own discretion request that the
47 prosecuting attorney apply for a court order requiring the body to be exhumed.

48 5. The coroner shall certify the cause of death in any case under [his] **the**
49 **coroner's** charge when a physician is unavailable to sign a certificate of death.

50 6. When the cause of death is established by the coroner, [he] **the**
51 **coroner** shall file a copy of [his] **the coroner's** findings in [his] **the coroner's**
52 office within thirty days.

53 7. If on view of the dead body and after personal inquiry into the cause
54 and manner of death, the coroner determines that a further examination is
55 necessary in the public interest, the coroner on [his] **the coroner's** own
56 authority may make or cause to be made an autopsy on the body. The coroner
57 may on [his] **the coroner's** own authority employ the services of a pathologist,
58 chemist, or other expert to aid in the examination of the body or of substances
59 supposed to have caused or contributed to death, and if the pathologist, chemist,
60 or other expert is not already employed by the city or county for the discharge of
61 such services, [he] **the pathologist, chemist, or other expert** shall, upon
62 written authorization of the coroner, be allowed reasonable compensation, payable
63 by the city or county, in the manner provided in section 58.530. The coroner
64 shall, at the time of the autopsy, record or cause to be recorded each fact and
65 circumstance tending to show the condition of the body and the cause and manner
66 of death.

67 8. If on view of the dead body and after personal inquiry into the cause
68 and manner of death, the coroner considers a further inquiry and examination
69 necessary in the public interest, [he] **the coroner** shall make out [his] **the**
70 **coroner's** warrant directed to the sheriff of the city or county requiring [him]
71 **the sheriff** forthwith to summon six good and lawful citizens of the county to
72 appear before the coroner, at the time and place expressed in the warrant, and
73 to inquire how and by whom the deceased [came to his death] **died**.

74 9. (1) When a person is being transferred from one county to another
75 county for medical treatment and such person dies while being transferred, **or**
76 **dies while being treated in the emergency room of the receiving facility**
77 the [county] **place** from which the person is first removed shall be considered the
78 place of death and the county coroner **or medical examiner** of the county from
79 which the person was being transferred shall be responsible for the **Missouri**

80 certificate of death and for investigating the cause and manner of the death. [If]

81 **(2) The coroner or medical examiner in the county in which the person**
82 **[died believes that further investigation is warranted and a postmortem**
83 **examination is needed, such coroner or medical examiner shall have the right to**
84 **further investigate and perform the postmortem examination] is determined to**
85 **be dead may with authorization of the coroner or medical examiner**
86 **from the transferring county, investigate and conduct postmortem**
87 **examinations at the expense of [such] the coroner or medical examiner [and**
88 **shall be] from the transferring county. The coroner or medical examiner**
89 **from the transferring county shall be responsible for the Missouri**
90 **certificate of death and for investigating the cause and manner of the**
91 **death. [Such]**

92 **(3) The emergency room staff or the coroner or medical examiner,**
93 **from the county where a person is determined to be dead shall**
94 **immediately notify the coroner or medical examiner of the county from which the**
95 **person was being transferred of the death of such person [and after an**
96 **investigation is completed shall notify such coroner or medical examiner of his**
97 **findings], and shall make available information and records necessary**
98 **for investigation of the death.**

99 **(4) If a person does not die while being transferred and is**
100 **institutionalized as a regularly admitted patient after such transfer and**
101 **subsequently dies while in such institution, the coroner or medical examiner of**
102 **the county in which the person [dies] is determined to be dead shall**
103 **immediately notify the coroner or medical examiner of the county or state from**
104 **which such person was transferred of the death of such person. In such cases, the**
105 **county in which the deceased was institutionalized shall be considered the place**
106 **of death.**

107 **(5) In the cases of death by homicide, suicide, accident, criminal**
108 **abortion including those that are self-induced, child fatality, or any**
109 **unusual or suspicious manner, the investigation of the cause and**
110 **manner of death shall revert to the county of origin, and the coroner**
111 **or medical examiner shall be responsible for the Missouri certificate of**
112 **death.**

113 **(6) There shall not be any statute of limitations or time limits on**
114 **the cause of death when death is the final result or determined to be**
115 **caused by homicide, suicide, accident, child fatality, criminal abortion**

116 **including those self-induced, or any unusual or suspicious manner. The**
117 **place of death shall be the place in which the person is determined to**
118 **be dead. The final investigation of death in determining the cause and**
119 **matter of death shall revert to the county or origin, and the coroner or**
120 **medical examiner of such county shall be responsible for the Missouri**
121 **certificate of death.**

122 10. Except as provided in subsection 9 of this section, if a person dies in
123 one county and [his] the body is subsequently transferred to another county, **or**
124 **into the state of Missouri, for burial or other reasons,** the county coroner
125 or medical examiner where the death occurred shall be responsible for the
126 certificate of death and for investigating the cause and manner of the death.

127 11. In performing [his] the duties **of the office,** the coroner or medical
128 examiner shall make reasonable efforts to accommodate organ **or tissue**
129 donation.

 58.720. 1. When any person dies within a county having a medical
2 examiner as a result of:

3 (1) Violence by homicide, suicide, or accident;

4 (2) Thermal, chemical, electrical, or radiation injury;

5 (3) Criminal abortions, including those self-induced;

6 (4) Disease thought to be of a hazardous and contagious nature or which
7 might constitute a threat to public health; or when any person dies:

8 (a) Suddenly when in apparent good health;

9 (b) When unattended by a physician, chiropractor, or an accredited
10 Christian Science practitioner, during the period of thirty-six hours immediately
11 preceding his death;

12 (c) While in the custody of the law, or while an inmate in a public
13 institution;

14 (d) In any unusual or suspicious manner;

15 the police, sheriff, law enforcement officer or official, or any person having
16 knowledge of such a death shall immediately notify the office of the medical
17 examiner of the known facts concerning the time, place, manner and
18 circumstances of the death.

19 Immediately upon receipt of notification, the medical examiner or his designated
20 assistant shall take charge of the dead body and fully investigate the essential
21 facts concerning the medical causes of death. He may take the names and
22 addresses of witnesses to the death and shall file this information in his

23 office. The medical examiner or his designated assistant shall take possession of
24 all property of value found on the body, making exact inventory thereof on his
25 report and shall direct the return of such property to the person entitled to its
26 custody or possession. The medical examiner or his designated assistant
27 examiner shall take possession of any object or article which, in his opinion, may
28 be useful in establishing the cause of death, and deliver it to the prosecuting
29 attorney of the county.

30 2. When a death occurs outside a licensed health care facility, the first
31 licensed medical professional or law enforcement official learning of such death
32 shall contact the county medical examiner. Immediately upon receipt of such
33 notification, the medical examiner or the medical examiner's deputy shall make
34 a determination if further investigation is necessary, based on information
35 provided by the individual contacting the medical examiner, and immediately
36 advise such individual of the medical examiner's intentions.

37 3. In any case of sudden, violent or suspicious death after which the body
38 was buried without any investigation or autopsy, the medical examiner, upon
39 being advised of such facts, may at his own discretion request that the
40 prosecuting attorney apply for a court order requiring the body to be exhumed.

41 4. The medical examiner shall certify the cause of death in any case where
42 death occurred without medical attendance or where an attending physician
43 refuses to sign a certificate of death, and may sign a certificate of death in the
44 case of any death.

45 5. When the cause of death is established by the medical examiner, he
46 shall file a copy of his findings in his office within thirty days after notification
47 of the death.

48 6. **(1)** When a person is being transferred from one county to another
49 county for medical treatment and such person dies while being transferred, **or**
50 **dies while being treated in the emergency room of the receiving**
51 **facility**, the [county] **place** from which the person is first removed shall be
52 considered the place of death and the **county coroner or** medical examiner of
53 the county from which the person was being transferred shall be responsible for
54 the **Missouri** certificate of death and for investigating the cause and manner of
55 the death. [If]

56 **(2)** The coroner or medical examiner in the county in which the person
57 [died believes that further investigation is warranted and a postmortem
58 examination is needed, such coroner or medical examiner shall have the right to

59 further investigate and perform the postmortem examination] **is determined to**
60 **be dead may, with authorization of the coroner or medical examiner**
61 **from the transferring county, investigate and conduct postmortem**
62 **examinations** at the expense of [such] the coroner or medical examiner [and
63 shall be] **from the transferring county. The coroner or medical examiner**
64 **from the transferring county, shall be** responsible for the **Missouri**
65 certificate of death and for investigating the cause and manner of the
66 death. [Such]

67 **(3) The emergency room staff or the** coroner or medical examiner,
68 **from the county where a person is determined to be dead** shall
69 immediately notify the coroner or medical examiner of the county from which the
70 person was being transferred of the death of such person [and after an
71 investigation is completed shall notify such coroner or medical examiner of his
72 findings.], **and shall make available information and records necessary**
73 **for investigation of the death.**

74 **(4) If a person does not die while being transferred and is**
75 **institutionalized as a regularly admitted patient** after such transfer and
76 subsequently dies while in such institution, the coroner or medical examiner of
77 the county in which the person [dies] **is determined to be dead** shall
78 immediately notify the coroner or medical examiner of the county from which
79 such person was transferred of the death of such person. In such cases, the
80 county in which the deceased was institutionalized shall be considered the place
81 of death.

82 **(5) In the cases of death by homicide, suicide, accident, criminal**
83 **abortion including those that are self-induced, child fatality, or any**
84 **unusual or suspicious manner, the investigation of the cause and**
85 **manner of death shall revert to the county of origin, and the coroner**
86 **or medical examiner shall be responsible for the Missouri certificate of**
87 **death.**

88 **(6) There shall not be any statute of limitations or time limits on**
89 **the cause of death when death is the final result or determined to be**
90 **caused by homicide, suicide, accident, child fatality, criminal abortion**
91 **including those self-induced, or any unusual or suspicious manner. The**
92 **place of death shall be the place in which the person is determined to**
93 **be dead. The final investigation of death in determining the cause and**
94 **matter of death shall revert to the county or origin, and the coroner or**

95 **medical examiner of such county shall be responsible for the Missouri**
96 **certificate of death.**

97 7. Except as provided in subsection 6 of this section, if a person dies in
98 one county and [his] the body is subsequently transferred to another county, **for**
99 **burial or other reasons** the county coroner or medical examiner where the
100 death occurred shall be responsible for the certificate of death and for
101 investigating the cause and manner of the death.

102 8. In performing [his] the duties, the coroner or medical examiner shall
103 [make reasonable efforts to accommodate organ donation] **comply with sections**
104 **58.775 to 58.785 with respect to organ donation.**

58.775. For the purpose of sections 58.775 to 58.785, the
2 **definitions in section 194.210, RSMo, are applicable.**

58.780. 1. A coroner or medical examiner shall cooperate with a
2 **procurement organization to maximize the opportunity to recover**
3 **anatomical gifts for the purpose of transplantation, therapy, research,**
4 **or education.**

5 **2. If a coroner or medical examiner receives notice from a**
6 **procurement organization that an anatomical gift might be available or**
7 **was made with respect to a decedent whose body is under the**
8 **jurisdiction of the coroner or medical examiner and a postmortem**
9 **examination is going to be performed, unless the coroner or medical**
10 **examiner denies recovery in accordance with section 58.785, the**
11 **coroner or medical examiner or designee shall conduct a postmortem**
12 **examination of the body or the part in a manner and within a time**
13 **period compatible with its preservation for the purposes of the gift.**

14 **3. A part may not be removed from the body of a decedent under**
15 **the jurisdiction of a coroner or medical examiner for transplantation,**
16 **therapy, research, or education unless the part is the subject of an**
17 **anatomical gift. The body of a decedent under the jurisdiction of the**
18 **coroner or medical examiner may not be delivered to a person for**
19 **research or education unless the body is the subject of an anatomical**
20 **gift. This subsection does not preclude a coroner or medical examiner**
21 **from performing the medicolegal investigation upon the body or parts**
22 **of a decedent under the jurisdiction of the coroner or medical**
23 **examiner.**

58.785. 1. Upon request of a procurement organization, a coroner
2 **or medical examiner shall release to the procurement organization the**

3 name, contact information, and available medical and social history of
4 a decedent whose body is under the jurisdiction of the coroner or
5 medical examiner. If the decedent's body or part is medically suitable
6 for transplantation, therapy, research, or education, the coroner or
7 medical examiner shall release postmortem examination results to the
8 procurement organization. The procurement organization may make
9 a subsequent disclosure of the postmortem examination results or other
10 information received from the coroner or medical examiner only if
11 relevant to transplantation or therapy.

12 2. The coroner or medical examiner may conduct a medicolegal
13 examination by reviewing all medical records, laboratory test results,
14 x-rays, other diagnostic results, and other information that any person
15 possesses about a prospective donor or a donor whose body is under
16 the jurisdiction of the coroner or medical examiner which the coroner
17 or medical examiner determines may be relevant to the investigation.

18 3. A person that has any information requested by a coroner or
19 medical examiner under subsection 2 of this section shall provide that
20 information as expeditiously as possible to allow the coroner or
21 medical examiner to conduct the medicolegal investigation within a
22 period compatible with the preservation of parts for purposes of
23 transplantation, therapy, research, or education.

24 4. If an anatomical gift has been or might be made of a part of a
25 decedent whose body is under the jurisdiction of the coroner or
26 medical examiner and a postmortem examination is not required, or the
27 coroner or medical examiner determines that a postmortem
28 examination is required but that the recovery of the part that is the
29 subject of an anatomical gift will not interfere with the examination,
30 the coroner or medical examiner and procurement organization shall
31 cooperate in the timely removal of the part from the decedent for
32 purposes of transplantation, therapy, research, or education.

33 5. If an anatomical gift of a part from the decedent under the
34 jurisdiction of the coroner or medical examiner has been or might be
35 made, but the coroner or medical examiner initially believes that the
36 recovery of the part could interfere with the postmortem investigation
37 into the decedent's cause or manner of death, the coroner or medical
38 examiner shall consult with the procurement organization or physician
39 or technician designated by the procurement organization about the

40 proposed recovery. After consultation, the coroner or medical
41 examiner may allow recovery.

42 6. Following the consultation under subsection 5 of this section,
43 in the absence of mutually agreed upon protocols to resolve conflict
44 between the coroner or medical examiner and the procurement
45 organization, if the coroner or medical examiner intends to deny
46 recovery, the coroner or medical examiner or his or her designee, at
47 the request of the procurement organization, shall attend the removal
48 procedure for the part before making a final determination not to allow
49 the procurement organization to recover the part. During the removal
50 procedure, the coroner or medical examiner or his or her designee may
51 allow recovery by the procurement organization to proceed, or, if the
52 coroner or medical examiner or his or her designee reasonably believes
53 that the part may be involved in determining the decedent's cause or
54 manner of death, deny recovery by the procurement organization.

55 7. If the coroner or medical examiner or his or her designee
56 denies recovery under subsection 6 of this section, the coroner or
57 medical examiner or his or her designee shall:

58 (1) Explain in a record the specific reasons for not allowing
59 recovery of the part;

60 (2) Include the specific reasons in the records of the coroner or
61 medical examiner; and

62 (3) Provide a record with the specific reasons to the procurement
63 organization.

64 8. If the coroner or medical examiner or his or her designee
65 allows recovery of a part under subsection 4, 5, or 6 of this section, the
66 procurement organization shall, upon request, cause the physician or
67 technician who removes the part to provide the coroner or medical
68 examiner with a record describing the condition of the part, a biopsy,
69 photograph, and any other information and observations that would
70 assist in the postmortem examination.

71 9. If a coroner or medical examiner or his or her designee is
72 required to be present at a removal procedure under subsection 6 of
73 this section, the procurement organization requesting the recovery of
74 the part shall, upon request, reimburse the coroner or medical
75 examiner or his or her designee for the additional costs incurred in
76 complying with subsection 6 of this section.

194.119. 1. As used in this section, the term "right of sepulcher" means
2 the right to choose and control the burial, cremation, or other final disposition of
3 a dead human body.

4 2. For purposes of this chapter and chapters 193, 333, and 436, RSMo,
5 and in all cases relating to the custody, control, and disposition of deceased
6 human remains, including the common law right of sepulcher, where not
7 otherwise defined, the term "next-of-kin" means the following persons in the
8 priority listed if such person is eighteen years of age or older, is mentally
9 competent, and is willing to assume responsibility for the costs of disposition:

10 (1) **An attorney-in-fact under a durable power of attorney that**
11 **expressly refers to granting the right of sepulcher;**

12 (2) The surviving spouse;

13 [(2)] (3) Any surviving child of the deceased. If a surviving child is less
14 than eighteen years of age and has a legal or natural guardian, such child shall
15 not be disqualified on the basis of the child's age and such child's legal or natural
16 guardian, if any, shall be entitled to serve in the place of the child unless such
17 child's legal or natural guardian was subject to an action in dissolution from the
18 deceased. In such event the person or persons who may serve as next-of-kin shall
19 serve in the order provided in subdivisions (3) to (8) of this subsection;

20 [(3)] (4) (a) Any surviving parent of the deceased; or

21 (b) If the deceased is a minor, a surviving parent who has custody of the
22 minor; or

23 (c) If the deceased is a minor and the deceased's parents have joint
24 custody, the parent whose residence is the minor child's residence for purposes
25 of mailing and education;

26 [(4)] (5) Any surviving sibling of the deceased;

27 [(5) Any person designated by the deceased to act as next-of-kin pursuant
28 to a valid designation of right of sepulcher as provided in subsection 8 of this
29 section;]

30 (6) The next nearest surviving relative of the deceased by consanguinity
31 or affinity;

32 (7) Any person or friend who assumes financial responsibility for the
33 disposition of the deceased's remains if no next-of-kin assumes such
34 responsibility;

35 (8) The county coroner or medical examiner; provided however that such
36 assumption of responsibility shall not make the coroner, medical examiner, the

37 county, or the state financially responsible for the cost of disposition.

38 3. The next-of-kin of the deceased shall be entitled to control the final
39 disposition of the remains of any dead human being consistent with all applicable
40 laws, including all applicable health codes.

41 4. A funeral director or establishment is entitled to rely on and act
42 according to the lawful instructions of any person claiming to be the next-of-kin
43 of the deceased; provided however, in any civil cause of action against a funeral
44 director or establishment licensed pursuant to this chapter for actions taken
45 regarding the funeral arrangements for a deceased person in the director's or
46 establishment's care, the relative fault, if any, of such funeral director or
47 establishment may be reduced if such actions are taken in reliance upon a
48 person's claim to be the deceased person's next-of-kin.

49 5. Any person who desires to exercise the right of sepulcher and who has
50 knowledge of an individual or individuals with a superior right to control
51 disposition shall notify such individual or individuals prior to making final
52 arrangements.

53 6. If an individual with a superior claim is personally served with written
54 notice from a person with an inferior claim that such person desires to exercise
55 the right of sepulcher and the individual so served does not object within
56 forty-eight hours of receipt, such individual shall be deemed to have waived such
57 right. An individual with a superior right may also waive such right at any time
58 if such waiver is in writing and dated.

59 7. If there is more than one person in a class who are equal in priority
60 and the funeral director has no knowledge of any objection by other members of
61 such class, the funeral director or establishment shall be entitled to rely on and
62 act according to the instructions of the first such person in the class to make
63 arrangements; provided that such person assumes responsibility for the costs of
64 disposition and no other person in such class provides written notice of his or her
65 objection.

66 [8. Any person may designate an individual to be his or her closest
67 next-of-kin, regardless of blood or marital relationship, by means of a written
68 instrument that is signed, dated, and verified. Such designation of right of
69 sepulcher shall be witnessed by two persons, and shall contain the names and
70 last known address of each person entitled to be next-of-kin but for the execution
71 of the designation of right of sepulcher and who are higher in priority than the
72 person so designated.]

194.210. [As used in sections 194.210 to 194.290, the following words and
2 terms mean:

3 (1) "Bank or storage facility", a facility licensed, accredited, or approved
4 under the laws of any state for storage of human bodies or parts thereof;

5 (2) "Decedent", a deceased individual and includes a stillborn infant or
6 fetus;

7 (3) "Donor", an individual who makes a gift of all or part of his body;

8 (4) "Hospital", a hospital licensed, accredited, or approved under the laws
9 of any state and includes a hospital operated by the United States government,
10 a state, or a subdivision thereof, although not required to be licensed under state
11 laws;

12 (5) "Part", organs, tissues, eyes, bones, arteries, blood, other fluids and
13 any other portions of a human body;

14 (6) "Person", an individual, corporation, government or governmental
15 subdivision or agency, business trust, estate, trust, partnership or association, or
16 any other legal entity;

17 (7) "Physician" or "surgeon", a physician or surgeon licensed or authorized
18 to practice under the laws of any state;

19 (8) "State" includes any state, district, commonwealth, territory, insular
20 possession, and any other area subject to the legislative authority of the United
21 States of America.] **1. Sections 194.210 to 194.294 may be cited as the**
22 **"Revised Uniform Anatomical Gift Act".**

23 **2. As used in sections 194.210 to 194.294, the following terms**
24 **mean:**

25 (1) "Adult", an individual who is at least eighteen years of age;

26 (2) "Agent", an individual:

27 (a) **Authorized to make health-care decisions on the principal's**
28 **behalf by a power of attorney for health care; or**

29 (b) **Expressly authorized to make an anatomical gift on the**
30 **principal's behalf by any other record signed by the principal;**

31 (3) "Anatomical gift", a donation of all or part of a human body
32 to take effect after the donor's death for the purposes of
33 transplantation, therapy, research, or education;

34 (4) "Decedent", a deceased individual whose body or part is or
35 may be the source of an anatomical gift;

36 (5) "Disinterested witness", a witness other than the spouse,

37 child, parent, sibling, grandchild, grandparent, or guardian of the
38 individual who makes, amends, revokes, or refuses to make an
39 anatomical gift, or another adult who exhibited special care and
40 concern for the individual. The term does not include a person to
41 which an anatomical gift could pass under section 194.255;

42 (6) "Document of gift", a donor card or other record used to make
43 an anatomical gift. The term includes a statement or symbol on a
44 driver's license, identification card, or donor registry;

45 (7) "Donor", an individual whose body or part is the subject of an
46 anatomical gift;

47 (8) "Donor registry", a database that contains records of
48 anatomical gifts and amendments to or revocations of anatomical gifts;

49 (9) "Driver's license", a license or permit issued by the
50 department of revenue to operate a vehicle whether or not conditions
51 are attached to the license or permit;

52 (10) "Eye bank", a person that is licensed, accredited, or
53 regulated under federal or state law to engage in the recovery,
54 screening, testing, processing, storage, or distribution of human eyes
55 or portions of human eyes;

56 (11) "Guardian", a person appointed by a court to make decisions
57 regarding the support, care, education, health, and welfare of an
58 individual. The term does not include a guardian ad litem;

59 (12) "Hospital", a facility licensed as a hospital under the laws of
60 any state or a facility operated as a hospital by the United States, a
61 state, or a subdivision of a state;

62 (13) "Identification card", an identification card issued by the
63 department of revenue;

64 (14) "Know", to have actual knowledge;

65 (15) "Minor", an individual who is under eighteen years of age;

66 (16) "Organ procurement organization", a person designated by
67 the United States Secretary of Health and Human Services as an organ
68 procurement organization;

69 (17) "Parent", a parent whose parental rights have not been
70 terminated;

71 (18) "Part", an organ, an eye, or tissue of a human being. The
72 term does not include the whole body;

73 (19) "Person", an individual, corporation, business trust, estate,

74 trust, partnership, limited liability company, association, joint venture,
75 public corporation, government or governmental subdivision, agency,
76 or instrumentality, or any other legal or commercial entity;

77 (20) "Physician", an individual authorized to practice medicine
78 or osteopathy under the laws of any state;

79 (21) "Procurement organization", an eye bank, organ
80 procurement organization, or tissue bank;

81 (22) "Prospective donor", an individual who is dead or near death
82 and has been determined by a procurement organization to have a part
83 that could be medically suitable for transplantation, therapy, research,
84 or education. The term does not include an individual who has made
85 a refusal;

86 (23) "Reasonably available", able to be contacted by a
87 procurement organization without undue effort and willing and able to
88 act in a timely manner consistent with existing medical criteria
89 necessary for the making of an anatomical gift;

90 (24) "Recipient", an individual into whose body a decedent's part
91 has been or is intended to be transplanted;

92 (25) "Record", information that is inscribed on a tangible medium
93 or that is stored in an electronic or other medium and is retrievable in
94 perceivable form;

95 (26) "Refusal", a record created under section 194.235 that
96 expressly states an intent to bar other persons from making an
97 anatomical gift of an individual's body or part;

98 (27) "Sign", with the present intent to authenticate or adopt a
99 record:

100 (a) To execute or adopt a tangible symbol; or

101 (b) To attach or logically associate with the record an electronic
102 symbol, sound, or process;

103 (28) "State", a state of the United States, the District of Columbia,
104 Puerto Rico, the United States Virgin Islands, or any territory or
105 insular possession subject to the jurisdiction of the United States;

106 (29) "Technician", an individual determined to be qualified to
107 remove or process parts by an appropriate organization that is
108 licensed, accredited, or regulated under federal or state law. The term
109 includes an enucleator;

110 (30) "Tissue", a portion of the human body other than an organ

111 or an eye. The term does not include blood unless the blood is donated
112 for purposes of research or education;

113 (31) "Tissue bank", a person that is licensed, accredited, or
114 regulated under federal or state law to engage in the recovery,
115 screening, testing, processing, storage, or distribution of tissue;

116 (32) "Transplant hospital", a hospital that furnishes organ
117 transplants and other medical and surgical specialty services required
118 for the care of transplant patients.

194.215. Sections 194.210 to 194.294 apply to an anatomical gift
2 or amendment to, revocation of, or refusal to make anatomical gift,
3 whenever made.

194.220. [1. Any individual of sound mind who is at least eighteen years
2 of age may give all or any part of his or her body for any purpose specified in
3 section 194.230, the gift to take effect upon death. Any individual who is a minor
4 and at least sixteen years of age may effectuate a gift for any purpose specified
5 in section 194.230, provided parental or guardian consent is deemed
6 given. Parental or guardian consent shall be noted on the minor's donor card,
7 donor's instruction permit or driver's license, as the attorney-in-fact pursuant to
8 subsection 2 of this section, or other document of gift. An express gift that is not
9 revoked by the donor before death is irrevocable, and the donee shall be
10 authorized to accept the gift without obtaining the consent of any other
11 person. The provisions of this subsection, relating to allowing a minor who is at
12 least sixteen years of age to effectuate a gift for any purpose specified in section
13 194.230, through the driver's license or instruction permit application process,
14 shall be effective July 1, 2003.

15 2. Any of the following persons, in order of priority stated, when persons
16 in prior classes are not available at the time of death, and in the absence of
17 actual knowledge of a gift by the decedent pursuant to subsection 1 of this section
18 or actual notice of contrary indications by the decedent or of opposition by a
19 member of the same or a prior class, may give all or any part of the decedent's
20 body for any purpose specified in section 194.230:

21 (1) An attorney-in-fact under a durable power of attorney that expressly
22 refers to making a gift of all or part of the principal's body pursuant to the
23 uniform anatomical gift act;

24 (2) The spouse;

25 (3) An adult son or daughter;

26 (4) Either parent;
27 (5) An adult brother or sister;
28 (6) A guardian of the person of the decedent at the time of his or her
29 death;

30 (7) Any other person authorized or under obligation to dispose of the body.

31 3. If the donee has actual notice of contrary indications by the decedent
32 or that a gift by a member of a class is opposed by a member of the same or a
33 prior class, the donee shall not accept the gift. The persons authorized by
34 subsection 2 of this section may make the gift after or immediately before death.

35 4. A gift of all or part of a body authorizes any examination necessary to
36 assure medical acceptability of the gift for the purposes intended.

37 5. The rights of the donee created by the gift are paramount to the rights
38 of others except as provided by subsection 4 of section 194.270.] **Subject to**
39 **section 194.240, an anatomical gift of a donor's body or part may be**
40 **made during the life of the donor for the purpose of transplantation,**
41 **therapy, research, or education in the manner provided in section**
42 **194.225 by:**

43 (1) **The donor, if the donor is an adult or if the donor is a minor**
44 **and is:**

45 (a) **Emancipated; or**

46 (b) **Authorized under state law to apply for a driver's license;**

47 (2) **An agent of the donor, unless the power of attorney for health**
48 **care or other record prohibits the agent from making an anatomical**
49 **gift;**

50 (3) **A parent of the donor, if the donor is an unemancipated**
51 **minor; or**

52 (4) **The donor's guardian.**

194.225. 1. A donor may make an anatomical gift:

2 (1) **By authorizing a statement or symbol indicating that the**
3 **donor has made an anatomical gift to be imprinted on the donor's**
4 **driver's license or identification card;**

5 (2) **In a will; or**

6 (3) **During a terminal illness or injury of the donor, by any form**
7 **of communication addressed to at least two adults at least one of whom**
8 **is a disinterested witness; or**

9 (4) **As provided in subsection 2 of this section.**

10 **2. A donor or other person authorized to make an anatomical gift**
11 **under section 194.220 may make a gift by a donor card or other record**
12 **signed by the donor or other person making the gift or by authorizing**
13 **that a statement or symbol indicating that the donor has made an**
14 **anatomical gift be included on a donor registry. If the donor or other**
15 **person is physically unable to sign a record, the record may be signed**
16 **by another individual at the direction of the donor or the other person**
17 **and shall:**

18 **(1) Be witnessed by at least two adults at least one of whom is a**
19 **disinterested witness, who have signed at the request of the donor or**
20 **the other person; and**

21 **(2) State that it has been signed and witnessed as provided in**
22 **subdivision (1) of subsection 1 of this section.**

23 **3. Revocation, suspension, expiration, or cancellation of the**
24 **driver's license or identification card upon which an anatomical gift is**
25 **indicated does not invalidate the gift.**

26 **4. An anatomical gift made by will takes effect upon the donor's**
27 **death whether or not the will is probated. Invalidation of the will after**
28 **the donor's death does not invalidate the gift.**

194.230. [The following persons may become donees of gifts of bodies or
2 parts thereof for the purposes stated:

3 (1) Any hospital, surgeon, or physician, for medical or dental education,
4 research, advancement of medical or dental science, therapy, or transplantation;
5 or

6 (2) Any accredited medical or dental school, college or university or the
7 state anatomical board for education, research, advancement of medical or dental
8 science, or therapy; or

9 (3) Any bank or storage facility, for medical or dental education, research,
10 advancement of medical or dental science, therapy, or transplantation; or

11 (4) Any specified individual for therapy or transplantation needed by such
12 individual.] **1. Subject to section 194.240, a donor or other person**
13 **authorized to make an anatomical gift under section 194.220 may**
14 **amend or revoke an anatomical gift by:**

15 **(1) A record signed by:**

16 **(a) The donor;**

17 **(b) The other person; or**

18 **(c) Subject to subsection 2 of this section, another individual**

19 acting at the direction of the donor or the other person if the donor or
20 other person is physically unable to sign; or

21 (2) A later-executed document of gift that amends or revokes a
22 previous anatomical gift or portion of an anatomical gift, either
23 expressly or by inconsistency.

24 2. A record signed under paragraph (c) of subdivision (1) of
25 subsection 1 of this section shall:

26 (1) Be witnessed by at least two adults at least one of whom is a
27 disinterested witness, who have signed at the request of the donor or
28 the other person; and

29 (2) State that it has been signed and witnessed as provided in
30 subdivision (1) of subsection 2 of this section.

31 3. Subject to section 194.240, a donor or other person authorized
32 to make an anatomical gift under section 194.220 may revoke the gift
33 by the destruction or cancellation of the document of gift, or a portion
34 of the document of gift used to make the gift, with the intent to revoke
35 the gift.

36 4. A donor may amend or revoke an anatomical gift that was not
37 made in a will by any form of communication during a terminal illness
38 or injury addressed to at least two adults at least one of whom is a
39 disinterested witness.

40 5. A donor who makes an anatomical gift in a will may amend or
41 revoke the gift in the manner provided for amendment or revocation
42 of wills or as provided in subsection 1 of this section.

194.235. 1. An individual may refuse to make an anatomical gift
2 of the individual's body or part by:

3 (1) A record signed by:

4 (a) The individual; or

5 (b) Subject to subsection 2 of this section, another individual
6 acting at the direction of the individual if the individual is physically
7 unable to sign;

8 (2) The individual's will whether or not the will is admitted to
9 probate or invalidated after the individual's death; or

10 (3) Any form of communication made by the individual during
11 the individual's terminal illness or injury addressed to at least two
12 adults at least one of whom is a disinterested witness.

13 2. A record signed under paragraph (b) of subdivision (1) of

14 **subsection 1 of this section shall:**

15 **(1) Be witnessed by at least two adults at least one of whom is a**
16 **disinterested witness, who have signed at the request of the individual;**
17 **and**

18 **(2) State that it has been signed and witnessed as provided in**
19 **subdivision (1) of subsection 2 of this section.**

20 **3. An individual may amend or revoke a refusal:**

21 **(1) In the manner provided in subsection 1 of this section for**
22 **making a refusal;**

23 **(2) By subsequently making an anatomical gift under section**
24 **194.225 that is inconsistent with the refusal; or**

25 **(3) By the destroying or cancelling of the record evidencing the**
26 **refusal, or the portion of the record used to make the refusal, with the**
27 **intent to revoke the refusal.**

28 **4. Except as otherwise provided in subsection 8 of section**
29 **194.240, in the absence of an express, contrary indication by the**
30 **individual set forth in the refusal, an individual's unrevoked refusal to**
31 **make an anatomical gift of the individual's body or a part bars all other**
32 **persons from making an anatomical gift of the individual's body or the**
33 **part.**

194.240. 1. [A gift of all or part of the body under subsection 1 of section
2 194.220 may be made by will. The gift becomes effective upon the death of the
3 testator without waiting for probate. If the will is not probated, or if it is
4 declared invalid for testamentary purposes, the gift, to the extent that it has been
5 acted upon in good faith, is nevertheless valid and effective.

6 2. A gift of all or part of the body under subsection 1 of section 194.220
7 may also be made by document other than a will. The gift becomes effective
8 upon the death of the donor. The document, which may be a card designed to be
9 carried on the person, must be signed by the donor in the presence of two
10 witnesses who must sign the document in his presence or before a notary or other
11 official authorized to administer oaths generally. If the donor cannot sign, the
12 document may be signed for him at his direction and in his presence in the
13 presence of two witnesses who must sign the document in his presence. Delivery
14 of the document of gift during the donor's lifetime is not necessary to make the
15 gift valid.

16 3. The gift may be made to a specified donee or without specifying a

17 donee. If the latter, the gift may be accepted by a physician as donee upon or
18 following death. If the gift is made to a specified donee who is not available at
19 the time and place of death or if the gift cannot be implemented, a physician upon
20 or following death, in the absence of any expressed indication that the donor
21 desired otherwise, may accept the gift as donee. The physician who becomes a
22 donee under this subsection shall not participate in the procedures for removing
23 or transplanting a part.

24 4. Notwithstanding the provisions of subsection 2 of section 194.270, the
25 donor may designate in his will, card, or other document of gift the surgeon or
26 physician to carry out the appropriate procedures. In the absence of a
27 designation or if the designee is not available, the donee or other person
28 authorized to accept the gift may employ or authorize any surgeon or physician
29 to carry out the appropriate procedures. For the purpose of removing an eye or
30 part thereof, any medical technician employed by a hospital, physician or eye
31 bank and acting under supervision may perform the appropriate procedures. Any
32 medical technician authorized to perform such procedure shall successfully
33 complete the course prescribed in section 194.295 for embalmers.

34 5. Any gift by a person designated in subsection 2 of section 194.220 shall
35 be made by a document signed by him or made by his telegraphic, recorded
36 telephonic, or other recorded message.

37 6. A gift of part of the body under subsection 1 of section 194.220 may also
38 be made by a statement on a form which shall be provided on the reverse side of
39 all Missouri motor vehicle licenses issued pursuant to chapter 302, RSMo. The
40 statement to be effective shall be signed by the owner of the license in the
41 presence of two witnesses, who shall sign the statement in the presence of the
42 donor. Use of the form is prima facie evidence that the owner of the license
43 intended to make the anatomical gift, and there shall be no civil or criminal
44 liability for removal of any part of the body indicated on the form by a licensed
45 physician or surgeon. The gift becomes effective upon the death of the
46 donor. Delivery of the license during the donor's lifetime is not necessary to make
47 the gift valid. The gift shall become invalidated upon expiration, cancellation,
48 revocation, or suspension of the license, and the gift must be renewed upon
49 renewal of each license. Pertinent medical information which may affect the
50 quality of the gift may be included in the statement of gift.

51 7. Any person eighteen years of age or older, or any person under the age
52 of eighteen with parental consent who indicates the desire to make an organ

53 donation through any method prescribed in this section may also contact the
54 department of health and senior services when completing such form, so that the
55 information may be included in the registry maintained by the department
56 pursuant to subsection 1 of section 194.304. Failure to contact the department
57 of health and senior services shall not be construed to challenge the validity of
58 the organ donation.

59 8. Organ procurement organizations and tissue banks may employ
60 coordinators to assist in the procurement of cadaveric organs and tissue for
61 transplant or research. A coordinator who assists in the procurement of cadaveric
62 organs or tissue for transplantation or research must do so under the direction
63 and supervision of a physician or surgeon. With the exception of organ
64 procurement surgery, this supervision may be indirect supervision. For purposes
65 of this subsection, the term "indirect supervision" means that a physician or
66 surgeon is responsible for the medical actions of the coordinator, that the
67 coordinator is acting under protocols expressly approved by a physician or
68 surgeon, and that a physician or surgeon is available, in person or by telephone,
69 to provide medical direction, consultation and advice in cases of organ and tissue
70 donation and procurement.

71 9. The department of health and senior services shall collect information
72 and publish an annual report which shall include the number of organ and tissue
73 donations made in the state, the number of organ or tissue donations received by
74 citizens of the state of Missouri, the number of organ or tissue donations
75 transported outside the state boundaries and the cost of such organ or tissue
76 donations.] **Except as otherwise provided in subsection 7 of this section**
77 **and subject to subsection 6 of this section, in the absence of an express,**
78 **contrary indication by the donor, a person other than the donor is**
79 **barred from making, amending, or revoking an anatomical gift of a**
80 **donor's body or a part if the donor made an anatomical gift of the**
81 **donor's body or the part under section 194.225 or an amendment to an**
82 **anatomical gift of the donor's body or the part under section 194.230.**

83 2. **A donor's revocation of an anatomical gift of the donor's body**
84 **or a part under section 194.230 is not a refusal and does not bar**
85 **another person specified in section 194.220 or 194.245 from making an**
86 **anatomical gift of the donor's body or a part under section 194.225 or**
87 **194.250.**

88 3. **If a person other than the donor makes an unrevoked**

89 anatomical gift of the donor's body or part under section 194.225 or an
90 amendment to an anatomical gift of the donor's body or part under
91 section 194.230, another person may not make, amend, or revoke the
92 gift of the donor's body or part under section 194.250.

93 4. A revocation of an anatomical gift of the donor's body or a
94 part under section 194.230 by a person other than the donor does not
95 bar another person from making an anatomical gift of the body or a
96 part under section 194.225 or 194.250.

97 5. In the absence of an express, contrary indication by the donor
98 or other person authorized to make an anatomical gift under section
99 194.220, an anatomical gift of a part is neither a refusal to give another
100 part nor a limitation on the making of an anatomical gift of another
101 part at a later time by the donor or another person made by a person.

102 6. In the absence of an express, contrary indication by the donor
103 or other person authorized to make an anatomical gift under section
104 194.220, an anatomical gift of a part for one or more purposes set forth
105 in section 194.220 is not a limitation on the making of an anatomical
106 gift of the part for any other purpose by the donor or other person
107 under section 194.225 or 194.250.

108 7. If a donor who is an unemancipated minor dies, a parent of
109 the donor who is reasonably available may revoke or amend an
110 anatomical gift of the donor's body or part.

111 8. If an unemancipated minor who signed a refusal dies, a parent
112 of the minor who is reasonably available may revoke the minor's
113 refusal.

194.245. 1. Subject to subsections 2 and 3 of this section and
2 unless barred by section 194.235 or 194.240, an anatomical gift of a
3 decedent's body or part for purposes of transplantation, therapy,
4 research, or education may be made, in the order of priority listed, by
5 any member of the following classes of persons who is reasonably
6 available:

7 (1) An agent of the decedent at the time of death who could have
8 made an anatomical gift under subdivision (2) of section 194.220
9 immediately before the decedent's death;

10 (2) The spouse of the decedent;

11 (3) Adult children of the decedent;

12 (4) Parents of the decedent;

- 13 **(5) Adult siblings of the decedent;**
14 **(6) Adult grandchildren of the decedent;**
15 **(7) Grandparents of the decedent;**
16 **(8) An adult who exhibited special care and concern for the**
17 **decedent;**
18 **(9) The persons who were acting as the guardian of the person**
19 **of the decedent at the time of death; and**
20 **(10) Any other person having the authority to dispose of the**
21 **decedent's body.**

22 **2. If there is more than one member of a class listed in**
23 **subdivisions (1), (3), (4), (5), (6), (7), or (9) of subsection 1 of this section**
24 **entitled to make an anatomical gift, an anatomical gift may be made by**
25 **a member of the class unless that member or a person to which the gift**
26 **can pass under section 194.255 knows of an objection by another**
27 **member of the class. If an objection is known, the gift may be made**
28 **only by a majority of the members of the class who are reasonably**
29 **available.**

30 **3. A person may not make an anatomical gift if, at the time of the**
31 **decedent's death, a person in a prior class under subsection 1 of this**
32 **section is reasonably available to make or to object to the making of an**
33 **anatomical gift.**

194.250. [If the gift is made by the donor to a specified donee, the will,
2 card, or other document, or an executed copy thereof, may be delivered to the
3 donee to expedite the appropriate procedures immediately after death. Delivery
4 is not necessary to the validity of the gift. The will, card, or other document, or
5 an executed copy thereof, may be deposited in any hospital, bank or storage
6 facility or registry office that accepts it for safekeeping or for facilitation of
7 procedures after death. On request of any interested party upon or after the
8 donor's death, the person in possession shall produce the document for
9 examination.] 1. **A person authorized to make an anatomical gift under**
10 **section 194.245 may make an anatomical gift by a document of gift**
11 **signed by the person making the gift or that person's oral**
12 **communication that is electronically recorded or is contemporaneously**
13 **reduced to a record and signed by the individual receiving the oral**
14 **communication.**

15 **2. Subject to subsection 3 of this section, an anatomical gift by**
16 **a person authorized under section 194.245 may be amended or revoked**

17 orally or in a record by any member of a prior class who is reasonably
18 available. If more than one member of the prior class is reasonably
19 available, the gift made by a person authorized under section 194.245
20 may be:

21 (1) Amended only if a majority of reasonably available members
22 agree to the revoking of the gift; or

23 (2) Revoked only if a majority of the reasonably available
24 members agree to the revoking of the gift or if they are equally divided
25 as to whether to revoke the gift.

26 3. A revocation under subsection 2 of this section is effective
27 only if, before an incision has been made to remove a part from the
28 donor's body or before invasive procedures have begun to prepare the
29 recipient, the procurement organization, transplant hospital, or
30 physician or technician knows of the revocation.

194.255. 1. An anatomical gift of a body or part may be made to
2 the following persons:

3 (1) A hospital, accredited medical school, dental school, college,
4 university, or organ procurement organization, or other appropriate
5 person for research or education;

6 (2) Subject to subsection 2 of this section, an individual
7 designated by the person making the anatomical gift if the individual
8 is the recipient of the part; or

9 (3) A named eye bank or tissue bank.

10 2. If an anatomical gift to an individual under subdivision (2) of
11 subsection 1 of this section cannot be transplanted into the individual,
12 the part passes in accordance with subsection 7 of this section in the
13 absence of an express, contrary indication by the person making the
14 anatomical gift.

15 3. If an anatomical gift of one or more specific parts or of all
16 parts is made in a document of gift that does not name a person
17 described in subsection 1 of this section but identifies the purpose for
18 which an anatomical gift may be used, the following rules apply:

19 (1) If the part is an eye and the gift is for the purpose of
20 transplantation or therapy, the gift passes to the appropriate eye bank;

21 (2) If the part is tissue and the gift is for the purpose of
22 transplantation or therapy, the gift passes to the appropriate tissue
23 bank;

24 **(3) If the part is an organ and the gift is for the purpose of**
25 **transplantation or therapy, the gift passes to the appropriate organ**
26 **procurement organization as custodian of the organ;**

27 **(4) If the part is an organ, an eye, or tissue and the gift is for the**
28 **purpose of research or education, the gift passes to the appropriate**
29 **procurement organization.**

30 **4. For the purpose of subsection 3 of this section, if there is more**
31 **than one purpose of an anatomical gift set forth in the document of gift**
32 **but the purposes are not set forth in any priority, the gift must be used**
33 **for transplantation or therapy if suitable. If the gift cannot be used for**
34 **transplantation or therapy, the gift may be used for research or**
35 **education.**

36 **5. If an anatomical gift of one or more specific parts is made in**
37 **a document of gift that does not name a person described in subsection**
38 **1 of this section and does not identify the purpose of the gift, the gift**
39 **may be used only for transplantation or therapy, and the gift passes in**
40 **accordance with subsection 7 of this section.**

41 **6. If a document of gift specifies only a general intent to make an**
42 **anatomical gift by words such as "donor", "organ donor", or "body**
43 **donor", or by a symbol or statement of similar import, the gift may be**
44 **used only for transplantation or therapy, and the gift passes in**
45 **accordance with subsection 7 of this section.**

46 **7. For purposes of subsections 2, 5, and 6 of this section, the**
47 **following rules apply:**

48 **(1) If the part is an eye, the gift passes to the appropriate eye**
49 **bank;**

50 **(2) If the part is tissue, the gift passes to the appropriate tissue**
51 **bank;**

52 **(3) If the part is an organ, the gift passes to the appropriate**
53 **organ procurement organization as custodian of the organ.**

54 **8. An anatomical gift of an organ for transplantation or therapy,**
55 **other than an anatomical gift under subdivision (2) of subsection 1 of**
56 **this section, passes to the organ procurement organization as custodian**
57 **of the organ.**

58 **9. If an anatomical gift does not pass under subsections 1**
59 **through 8 of this section or the decedent's body or part is not used for**
60 **transplantation, therapy, research, or education, custody of the body**

61 **or part passes to the person under obligation to dispose of the body or**
62 **part.**

63 **10. A person may not accept an anatomical gift if the person**
64 **knows that the gift was not effectively made under section 194.225 or**
65 **194.250 or if the person knows that the decedent made a refusal under**
66 **section 194.235 that was not revoked. For purposes of this subsection,**
67 **if a person knows that an anatomical gift was made on a document of**
68 **gift, the person is deemed to know of any amendment or revocation of**
69 **the gift or any refusal to make an anatomical gift on the same**
70 **document of gift.**

71 **11. Except as otherwise provided in subdivision (2) of subsection**
72 **1 of this section, nothing in this act affects the allocation of organs for**
73 **transplantation or therapy.**

194.260. 1. [If the will, card, or other document or executed copy thereof,
2 has been delivered to a specified donee, the donor may amend or revoke the gift
3 by:

- 4 (1) The execution and delivery to the donee of a signed statement, or
- 5 (2) An oral statement made in the presence of two persons and
6 communicated to the donee, or
- 7 (3) A statement during a terminal illness or injury addressed to an
8 attending physician and communicated to the donee, or
- 9 (4) A signed card or document found on his person or in his effects.

10 2. Any document of gift which has not been delivered to the donee may be
11 revoked by the donor in the manner set out in subsection 1, or by destruction,
12 cancellation, or mutilation of the document and all executed copies thereof.

13 3. Any gift made by a will may also be amended or revoked in the manner
14 provided for amendment or revocation of wills, or as provided in subsection 1.]
15 **The following persons shall make a reasonable search of an individual**
16 **who the person reasonably believes is dead or near death for a**
17 **document of gift or other information identifying the individual as a**
18 **donor or as an individual who made a refusal:**

19 (1) A law enforcement officer, firefighter, paramedic, or other
20 emergency rescuer finding the individual; and

21 (2) If no other source of the information is immediately
22 available, a hospital, as soon as practical after the individual's arrival
23 at the hospital.

24 2. If a document of gift or a refusal to make an anatomical gift
25 is located by the search required by subdivision (1) of subsection 1 of
26 this section and the individual or deceased individual to whom it
27 relates is taken to a hospital, the person responsible for conducting the
28 search shall send the document of gift or refusal to the hospital.

29 3. A person is not subject to criminal or civil liability for failing
30 to discharge the duties imposed by this section but may be subject to
31 administrative sanctions.

 194.263. 1. A document of gift need not be delivered during the
2 donor's lifetime to be effective.

3 2. Upon or after an individual's death, a person in possession of
4 a document of gift or a refusal to make an anatomical gift with respect
5 to the individual shall allow examination and copying of the document
6 of gift or refusal by a person authorized to make or object to the
7 making of an anatomical gift with respect to the individual or by a
8 person to which the gift could pass under section 194.255.

 194.265. 1. When a hospital refers an individual at or near death
2 to a procurement organization, the organization shall make a
3 reasonable search of any donor registry and other applicable records
4 that it knows exist for the geographical area in which the individual
5 resides to ascertain whether the individual has made an anatomical
6 gift.

7 2. A procurement organization shall be allowed reasonable
8 access to information in the records of the department of health and
9 senior services and department of revenue to ascertain whether an
10 individual at or near death is a donor.

11 3. When a hospital refers an individual at or near death to a
12 procurement organization, the organization may conduct any
13 reasonable examination necessary to ensure the medical suitability of
14 a part that is or could be the subject of an anatomical gift for
15 transplantation, therapy, research, or education from a donor or a
16 prospective donor. During the examination period, measures necessary
17 to ensure the medical suitability of the part may not be withdrawn
18 unless the hospital or procurement organization knows that the
19 individual expressed a contrary intent.

20 4. Unless prohibited by law other than sections 194.210 to
21 194.294, at any time after a donor's death, the person to which a part

22 passes under section 194.255 may conduct any reasonable examination
23 necessary to ensure the medical suitability of the body or part for its
24 intended purpose.

25 5. Unless prohibited by law other than sections 194.210 to
26 194.294, an examination under subsection 3 or 4 of this section may
27 include an examination of all medical records of the donor or
28 prospective donor.

29 6. Upon the death of a minor who was a donor or had signed a
30 refusal, unless a procurement organization knows the minor is
31 emancipated, the procurement organization shall conduct a reasonable
32 search for the parents of the minor and provide the parents with an
33 opportunity to revoke or amend the anatomical gift or revoke a refusal.

34 7. Upon referral by a hospital under subsection 1 of this section,
35 a procurement organization shall make a reasonable search for any
36 person listed in section 194.245 having priority to make an anatomical
37 gift on behalf of a prospective donor. If a procurement organization
38 receives information that an anatomical gift to any other person was
39 made, amended, or revoked, it shall promptly advise the other person
40 of all relevant information.

41 8. Subject to subsection 8 of section 194.255 and section 58.785,
42 RSMo, the rights of the person to which a part passes under section
43 194.255 are superior to rights of all others with respect to the part. The
44 person may accept or reject an anatomical gift in whole or in
45 part. Subject to the terms of the document of gift and this act, a person
46 that accepts an anatomical gift of an entire body may allow embalming
47 or cremation and use of remains in a funeral service. If the gift is of a
48 part, the person to which the part passes under section 194.255, upon
49 the death of the donor and before embalming, burial, or cremation,
50 shall cause the part to be removed without unnecessary mutilation.

51 9. Neither the physician who attends the decedent at death nor
52 the physician who determines the time of the decedent's death may
53 participate in the procedures for removing or transplanting a part from
54 the decedent.

55 10. A physician or technician may remove a donated part from
56 the body of a donor that the physician or technician is qualified to
57 remove.

194.270. [1. The donee may accept or reject the gift. If the donee accepts

2 a gift of the entire body, he may, subject to the terms of the gift, authorize
3 embalming and the use of the body in funeral services. If the gift is of a part of
4 the body, the donee, upon the death of the donor and prior to embalming, shall
5 cause the part to be removed without unnecessary mutilation. After removal of
6 the part, custody of the remainder of the body vests in the surviving spouse, next
7 of kin, or other persons under obligation to dispose of the body.

8 2. The time of death shall be determined by a physician who tends the
9 donor at his death, or, if none, the physician who certifies the death. The
10 physician shall not participate, directly or indirectly, in the procedures for
11 removing or transplanting a part or be a relative within the fourth degree of
12 consanguinity of any donee of a body or part thereof which is removed or
13 transplanted.

14 3. A person who acts without negligence and in good faith in accord with
15 the terms of this act or with the anatomical gift laws of another state or a foreign
16 country is not liable for damages in any civil action or subject to prosecution in
17 any criminal proceeding for his act.

18 4. The provisions of this act are subject to the laws of this state
19 prescribing powers and duties with respect to autopsies.] **Each hospital in this**
20 **state shall enter into agreements or affiliations with procurement**
21 **organizations for coordination of procurement and use of anatomical**
22 **gifts.**

194.275. 1. **Except as otherwise provided in subsection 2 of this**
2 **section, a person that for valuable consideration, knowingly purchases**
3 **or sells a part for transplantation or therapy if removal of a part from**
4 **an individual is intended to occur after the individual's death commits**
5 **a felony and upon conviction is subject to a fine not exceeding fifty**
6 **thousand dollars or imprisonment not exceeding five years, or both.**

7 2. **A person may charge a reasonable amount for the removal,**
8 **processing, preservation, quality control, storage, transportation,**
9 **implantation, or disposal of a part.**

194.280. [Sections 194.210 to 194.290 shall be so construed as to
2 effectuate its general purpose to make uniform the law of those states which
3 enact it.] **Any person that in order to obtain a financial gain**
4 **intentionally falsifies, forges, conceals, defaces, or obliterates a**
5 **document of gift, an amendment or revocation of a document of gift, or**
6 **a refusal commits a felony and upon conviction is subject to a fine not**

7 exceeding fifty thousand dollars or imprisonment not exceeding five
8 years, or both.

194.285. 1. A person who acts without negligence and in good
2 faith in accord with the terms of sections 194.210 to 194.294 or with the
3 anatomical gift laws of another state or foreign country is not liable for
4 damages in any civil actions or subject to prosecution in any criminal
5 proceeding for his act. A party claiming another was negligent shall
6 have the burden of proving the claimed negligence.

7 2. Neither the person making an anatomical gift nor the donor's
8 estate is liable for any injury or damage that results from the making
9 or use of the gift.

10 3. In determining whether an anatomical gift has been made,
11 amended, or revoked under sections 194.210 to 194.294, a person may
12 rely upon representations of individuals listed in subdivisions (2), (3),
13 (4), (5), (6), (7) or (8) of subsection 1 of section 194.245 relating to the
14 individual's relationship to the donor or prospective donor unless the
15 person knows that representation is untrue.

194.290. [Sections 194.210 to 194.290 may be cited as the "Uniform
2 Anatomical Gift Act".] 1. As used in this section, the following terms
3 mean:

4 (1) "Advance health-care directive", a power of attorney for
5 health care or record signed by a prospective donor containing the
6 prospective donor's direction concerning a health-care decision for the
7 prospective donor;

8 (2) "Declaration", a record signed by a prospective donor
9 specifying the circumstances under which a life support system may be
10 withheld or withdrawn;

11 (3) "Health-care decision", any decision made regarding the
12 health care of the prospective donor.

13 2. If a prospective donor has a declaration or advance health-
14 care directive and the terms of the declaration or directive and the
15 express or implied terms of a potential anatomical gift are in conflict
16 with regard to the administration of measures necessary to ensure the
17 medical suitability of a part for transplantation or therapy, the
18 prospective donor's attending physician and prospective donor shall
19 confer to resolve the conflict. If the prospective donor is incapable of
20 resolving the conflict, an agent acting under the prospective donor's

21 declaration or directive or, if none or the agent is not reasonably
22 available, another person authorized by law to make health-care
23 decisions on behalf of the prospective donor shall act for the donor to
24 resolve the conflict. The conflict must be resolved as expeditiously as
25 possible. Information relevant to the resolution of the conflict may be
26 obtained from the appropriate procurement organization and any other
27 person authorized to make an anatomical gift for the prospective donor
28 under section 194.245. Before the resolution of the conflict, measures
29 necessary to insure the medical suitability of an organ for
30 transplantation or therapy may not be withheld or withdrawn from the
31 prospective donor, if withholding or withdrawing the measures is not
32 contraindicated by appropriate end-of-life care.

194.292. 1. A document of gift is valid if executed in accordance
2 with:

3 (1) Sections 194.210 to 194.294;

4 (2) The laws of the state or country where it was executed; or

5 (3) The laws of the state or country where the person making the
6 anatomical gift was domiciled, has a place of residence, or was a
7 national at the time the document of gift was executed.

8 2. If a document of gift is valid under this section, the law of this
9 state governs the interpretation of the document of gift.

10 3. A person may presume that a document of gift or amendment
11 of an anatomical gift is valid unless that person knows that it was not
12 validly executed or was revoked.

194.293. In applying and construing sections 194.216 to 194.290,
2 consideration shall be given to the need to promote uniformity of the
3 law with respect to its subject matter among states that enact it.

194.294. Sections 194.210 to 194.294 modifies, limits, and
2 supersedes the Electronic Signatures in Global and National Commerce
3 Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or
4 supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize
5 electronic delivery of any of the notices described in Section 103(b) of
6 that act, 15 U.S.C. Section 7003(b).

194.304. 1. The department of health and senior services [shall maintain
2 a registry of organ donors. The registry shall record any person who indicates
3 through any means, including completing the reverse side of a license to operate
4 a motor vehicle as prescribed in subsection 6 of section 194.240, that the person

5 desires to make an organ donation upon the person's death. Information in such
6 registry shall be released only to appropriate persons or organizations designated
7 by the advisory committee.

8 2. Any person who has previously put his or her name on the organ donor
9 registry may have that name deleted by filing the appropriate form with the
10 department of health and senior services.] **may establish or contract for the**
11 **establishment of a donor registry.**

12 **2. The department of revenue shall cooperate with any donor**
13 **registry that this state establishes, contracts for, or recognizes for the**
14 **purpose of transferring to the donor registry all relevant information**
15 **regarding a donor's making, amendment to, or revocation of an**
16 **anatomical gift.**

17 **3. A donor registry shall:**

18 **(1) Allow a donor or other person authorized under section**
19 **194.220 to include on the donor registry a statement or symbol that the**
20 **donor has made, amended, or revoked an anatomical gift;**

21 **(2) Be accessible to a procurement organization to allow it to**
22 **obtain relevant information on the donor registry to determine, at or**
23 **near death of the donor or a prospective donor, whether the donor or**
24 **prospective donor has made, amended, or revoked an anatomical gift;**
25 **and**

26 **(3) Be accessible for purposes of subdivisions (1) and (2) of this**
27 **subsection seven days a week on a twenty-four-hour basis.**

28 **4. Personally identifiable information on a donor registry about**
29 **a donor or prospective donor may not be used or disclosed without the**
30 **express consent of the donor, prospective donor, or the person that**
31 **made the anatomical gift for any purpose other than to determine, at**
32 **or near death of the donor or a prospective donor, whether the donor**
33 **or prospective donor has made, amended, or revoked an anatomical**
34 **gift.**

35 **5. This section does not prohibit any person from creating or**
36 **maintaining a donor registry that is not established by or under**
37 **contract with the state. However, the registry shall comply with**
38 **subsections 3 and 4 of this section.**

302.171. 1. Beginning July 1, 2005, the director shall verify that an
2 applicant for a driver's license is lawfully present in the United States before
3 accepting the application. The director shall not issue a driver's license for a

4 period that exceeds an applicant's lawful presence in the United States. The
5 director may establish procedures to verify the lawful presence of the applicant
6 and establish the duration of any driver's license issued under this section. An
7 application for a license shall be made upon an approved form furnished by the
8 director. Every application shall state the full name, Social Security number, age,
9 height, weight, color of eyes, sex, residence, mailing address of the applicant, and
10 the classification for which the applicant has been licensed, and, if so, when and
11 by what state, and whether or not such license has ever been suspended, revoked,
12 or disqualified, and, if revoked, suspended or disqualified, the date and reason for
13 such suspension, revocation or disqualification and whether the applicant is
14 making a one dollar donation to promote an organ donation program as
15 prescribed in subsection 2 of this section. A driver's license, nondriver's license,
16 or instruction permit issued under this chapter shall contain the applicant's legal
17 name as it appears on a birth certificate or as legally changed through marriage
18 or court order. No name change by common usage based on common law shall be
19 permitted. The application shall also contain such information as the director
20 may require to enable the director to determine the applicant's qualification for
21 driving a motor vehicle; and shall state whether or not the applicant has been
22 convicted in this or any other state for violating the laws of this or any other
23 state or any ordinance of any municipality, relating to driving without a license,
24 careless driving, or driving while intoxicated, or failing to stop after an accident
25 and disclosing the applicant's identity, or driving a motor vehicle without the
26 owner's consent. The application shall contain a certification by the applicant as
27 to the truth of the facts stated therein. Every person who applies for a license to
28 operate a motor vehicle who is less than twenty-one years of age shall be provided
29 with educational materials relating to the hazards of driving while intoxicated,
30 including information on penalties imposed by law for violation of the
31 intoxication-related offenses of the state. Beginning January 1, 2001, if the
32 applicant is less than eighteen years of age, the applicant must comply with all
33 requirements for the issuance of an intermediate driver's license pursuant to
34 section 302.178.

35 2. An applicant for a license may make a donation of one dollar to promote
36 an organ donor program. The director of revenue shall collect the donations and
37 deposit all such donations in the state treasury to the credit of the organ donor
38 program fund established in sections 194.297 to 194.304, RSMo. Moneys in the
39 organ donor program fund shall be used solely for the purposes established in

40 sections 194.297 to 194.304, RSMo, except that the department of revenue shall
41 retain no more than one percent for its administrative costs. The donation
42 prescribed in this subsection is voluntary and may be refused by the applicant for
43 the license at the time of issuance or renewal of the license. The director shall
44 make available an informational booklet or other informational sources on the
45 importance of organ donations to applicants for licensure as designed by the
46 organ donation advisory committee established in sections 194.297 to 194.304,
47 RSMo. The director shall inquire of each applicant at the time the licensee
48 presents the completed application to the director whether the applicant is
49 interested in making the one dollar donation prescribed in this subsection and
50 whether the applicant is interested in inclusion in the organ donor registry and
51 shall also specifically inform the licensee of the ability to consent to organ
52 donation by completing the form on the reverse of the license that the applicant
53 will receive in the manner prescribed by [subsection 6 of section 194.240]
54 **subdivision (1) of subsection 1 of section 194.225**, RSMo. The director shall
55 notify the department of health and senior services of information obtained from
56 applicants who indicate to the director that they are interested in registry
57 participation, and the department of health and senior services shall enter the
58 complete name, address, date of birth, race, gender and a unique personal
59 identifier in the registry established in subsection 1 of section 194.304, RSMo.

60 3. An applicant for a license may make a donation of one dollar to promote
61 a blindness education, screening and treatment program. The director of revenue
62 shall collect the donations and deposit all such donations in the state treasury to
63 the credit of the blindness education, screening and treatment program fund
64 established in section 192.935, RSMo. Moneys in the blindness education,
65 screening and treatment program fund shall be used solely for the purposes
66 established in section 192.935, RSMo, except that the department of revenue shall
67 retain no more than one percent for its administrative costs. The donation
68 prescribed in this subsection is voluntary and may be refused by the applicant for
69 the license at the time of issuance or renewal of the license. The director shall
70 inquire of each applicant at the time the licensee presents the completed
71 application to the director whether the applicant is interested in making the one
72 dollar donation prescribed in this subsection.

73 4. Beginning July 1, 2005, the director shall deny the driving privilege of
74 any person who commits fraud or deception during the examination process or
75 who makes application for an instruction permit, driver's license, or nondriver's

76 license which contains or is substantiated with false or fraudulent information
77 or documentation, or who knowingly conceals a material fact or otherwise
78 commits a fraud in any such application. The period of denial shall be one year
79 from the effective date of the denial notice sent by the director. The denial shall
80 become effective ten days after the date the denial notice is mailed to the
81 person. The notice shall be mailed to the person at the last known address shown
82 on the person's driving record. The notice shall be deemed received three days
83 after mailing unless returned by the postal authorities. No such individual shall
84 reapply for a driver's examination, instruction permit, driver's license, or
85 nondriver's license until the period of denial is completed. No individual who is
86 denied the driving privilege under this section shall be eligible for a limited
87 driving privilege issued under section 302.309.

88 5. All appeals of denials under this section shall be made as required by
89 section 302.311.

90 6. The period of limitation for criminal prosecution under this section
91 shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

92 7. The director may promulgate rules and regulations necessary to
93 administer and enforce this section. No rule or portion of a rule promulgated
94 pursuant to the authority of this section shall become effective unless it has been
95 promulgated pursuant to chapter 536, RSMo.

96 8. Notwithstanding any provisions of this chapter that requires an
97 applicant to provide proof of lawful presence for renewal of a noncommercial
98 driver's license, noncommercial instruction permit, or nondriver's license, an
99 applicant who is sixty-five years and older and who was previously issued a
100 Missouri noncommercial driver's license, noncommercial instruction permit, or
101 Missouri nondriver's license is exempt from showing proof of lawful presence.

102 9. Notwithstanding any other provision of this chapter, if an applicant
103 does not meet the requirements of subsection 8 of this section and does not have
104 the required documents to prove lawful presence, the department may issue a
105 one-year driver's license renewal. This one-time renewal shall only be issued to
106 an applicant who previously has held a Missouri noncommercial driver's license,
107 noncommercial instruction permit, or nondriver's license for a period of fifteen
108 years or more and who does not have the required documents to prove lawful
109 presence. After the expiration of the one-year period, no further renewal shall be
110 provided without the applicant producing proof of lawful presence.

[194.233. 1. The chief executive officer of each hospital in

2 this state shall designate one or more trained persons to request
3 anatomical gifts which persons shall not be connected with
4 determination of death. The hospital official may designate a
5 representative of an organ or tissue procurement organization to
6 request consent.

7 2. When there is a patient who is a suitable candidate for
8 organ or tissue donation based on hospital accepted criteria the
9 designee shall request consent to a donation from the persons
10 authorized to give consent as specified in subdivision (1), (2), (3),
11 (4), (5) or (6) of subsection 2 of section 194.220. The request shall
12 be made in the order of priority stated in subsection 2 of section
13 194.220. When the hospital cannot, from available information,
14 ascertain that the patient has next-of-kin authorized to give
15 consent as specified in subdivision (2), (3), (4), (5) or (6) of
16 subsection 2 of section 194.220, then the hospital shall notify and
17 request consent to a donation from a member of the class described
18 in subdivision (7) of subsection 2 of section 194.220. Such
19 notification to a member of the class described in subdivision (7) of
20 subsection 2 of section 194.220 shall occur before death where
21 practicable.

22 3. No request shall be required if the hospital designee has
23 actual notice of a gift by the decedent under subsection 1 of section
24 194.220 or actual notice of contrary indications by the decedent.

25 4. Consent shall be obtained by the methods specified in
26 section 194.240.

27 5. Where a donation is requested, the designee shall verify
28 such request in the patient's medical record. Such verification of
29 request for organ donation shall include a statement to the effect
30 that a request for consent to an anatomical gift has been made, and
31 shall further indicate thereupon whether or not consent was
32 granted, the name of the person granting or refusing the consent,
33 and his or her relationship to the decedent.

34 6. Upon the approval of the designated next of kin or other
35 individual, as set forth in subsection 2 of section 194.220, the
36 hospital shall then notify an organ or tissue procurement
37 organization and cooperate in the procurement of the anatomical

38 gift or gifts pursuant to applicable provisions of sections 194.210 to
39 194.290.

40 7. No hospital shall have an obligation to retrieve the organ
41 or tissue donated pursuant to this section.]

✓

Unofficial

Bill

Copy